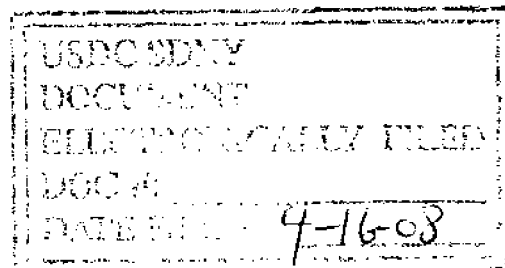


Reenan, J

Norman C. Kleinberg (NK 2735)
Theodore V. H. Mayer (TM 9748)
William J. Beausoleil (WB 5296)
HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, New York 10004-1482
(212) 837-6000

Attorneys for Defendant Merck & Co., Inc.



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:
Fosamax Products Liability Litigation

1:06-md-1789 (JFK)

This Document Relates to
Francis Finch, et al.
v. Merck & Co., Inc.

Case No. 1:07-cv-9481-JFK

STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiffs in
the above captioned case and Defendant Merck & Co., Inc., ("Merck") through their
respective undersigned counsel, as follows:

I. This case having been resolved upon the agreement of the Plaintiffs in the
above captioned case to voluntarily dismiss without prejudice their claims against Merck,
and the agreement of Merck not to seek from Plaintiffs its fees and costs. The following
Plaintiffs are hereby dismissed from the above captioned case without prejudice pursuant
to Fed. R. Civ. P. 41(a)(1):

Mary Cerquera
Milton Ketter
Donna Whited

2. The above named Plaintiffs agree that, in the event they re-file any suit based on any similar claims related to Fosamax against Merck, any of Merck's subsidiaries, agents, distributors, employees, sales representatives, or against any pharmacy, such lawsuit will be filed in this Court, without joining any party whose joinder would defeat diversity pursuant to 28 U.S.C. § 1332.

3. The above named Plaintiffs further agree that in the event they re-file such lawsuit, any discovery that has taken place or will take place in *In re Fosamax Products Litig. Litig.* (MDL-1789), the MDL proceeding that has been established in the United States District Court for the Southern District of New York, and that is not specific to a particular plaintiff, can be used in any such lawsuit re-filed by the above named Plaintiffs as though they had been a party and had an opportunity to participate in that discovery.

4. The above named Plaintiffs agree to the stated conditions herein and wish to dismiss the instant lawsuit without prejudice to re-filing. There are no counterclaims or third-party claims.

5. Each party is to bear its own costs and attorneys' fees.

WHEREFORE, the above named parties hereto stipulate to the dismissal of the above named Plaintiffs without prejudice to re-filing, subject to the conditions stated herein.

Dated: March 31, 2008

PHILLIPS & ASSOCIATES

HUGHES HUBBARD & REED LLP

By 

Lowell W. Finson
3030 N. Third St.
Suite 1100
Phoenix, AZ 85012-3049
(602) 258-8900 ext. 295


By 

Theodore V. H. Mayer (TM 9748)
One Battery Park Plaza
New York, New York 10004
(212) 837-6888

Attorneys for Plaintiff

Attorneys for Defendant Merck & Co, Inc.

SO ORDERED:


Hon. John F. Keenan

4/16/08